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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,138	04/12/2001	Peter J. Nunes	IL-10691	1976

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EXAMINER

ALEXANDER, LYLE

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/834,138

Applicant(s)

Nunes

Examiner

LYLE A ALEXANDER

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pawliszyn (Optimization of the SPME Device[cited by Applicant in the 1/31/03 IDS]) or Koehler et al. in view of Rieck further in view of Whitcher et al. or Sardisco et al.

See the appropriate paragraph of paper 5.

With respect to the new limitations, the Office maintains Reich teaches individual containers that will accomplish the claimed task of preventing cross contamination with another syringe.

Response to Arguments

Applicant's arguments filed 6/19/03 have been fully considered but they are not persuasive.

Applicant states Pawliszyn and Koehler et al. both teach means for fiber sealing and sample protection and there would have been no motivation to look to Reich for any further containment of the syringes. The Office maintains the motivation of record that Reich teaches protection of the syringes during transportation is sufficient motivation to make the combination.

Applicant states the assembly of a plurality of SPME devices in transport containers is not simply to permit multiple tests for economy and efficiency reasons as suggested by the Office, but rather to prevent cross contamination of the syringes. The Office maintains the motivation of records leads one of

ordinary skill in the art to the claimed device and has properly rejected the pending claims.

Applicant states the 6/19/03 amendments define over the art of record. The Office maintains Reich teaches the use of individual compartments for each syringe that isolates each syringe and prevents the claimed cross contamination.

Applicant reads the application of Whitcher and Sardisco as the Office stating from these two references it would have been within the skill of the art to supply all necessary items as well as instructions for any kit irrespective of the functionality. From these two references the Office maintains it would have been within the skill of the art to supply basic components of a kit, such as instructions and a container.

Applicant state Pawliszyn and Koehler et al. teach use of a septum for the transport of each of the transport syringe. However, Reich fails to teach a septum within the housing. The Office maintains the septums taught by Pawliszyn and Koehler et al. when inside the container taught by Reich are indistinguishable from the pending claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LYLE A ALEXANDER** whose telephone

number is 703-308-3893. The examiner can normally be reached on
MONDAY,WEDNESDAY,FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, JILL WARDEN can be reached on 703-308-4037. The
fax phone numbers for the organization where this application or proceeding is
assigned are 703-872-3330 for regular communications and 703-872-3331 for
After Final communications.

Any inquiry of a general nature or relating to the status of this application
or proceeding should be directed to the receptionist whose telephone number is
703-308-0651.



LYLE A ALEXANDER
Primary Examiner
Art Unit 1743

August 5, 2003